

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JEFF MUSGROVE,)	
)	
Plaintiff,)	No. 97 C 8841
)	
-vs-)	Hon. Rebecca R. Pallmeyer
)	
GEORGE DETELLA, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff Jeff Musgrove is a prisoner in the custody of the Illinois Department of Corrections. In April 1997, while Plaintiff was housed at the Stateville Correctional Center, he made an unsuccessful attempt to escape from a van in which he had been transported to the Will County Courthouse. In this lawsuit, Musgrove alleges that Defendant officers intentionally confiscated certain of his legal files. Although the complaint is not specific about the circumstances, the record reflects that the files in question were either taken from the van or were taken from Musgrove's cell during a search that occurred near the time of the escape attempt. Two accordion files of materials were returned to Musgrove soon after. Other materials were missing for many months. In late August 2000, a Stateville Correctional Center investigative officer found some missing documents in an "Inmate Property Box" and returned them to Musgrove.

Plaintiff claims that Defendants' conduct interfered with his right of access to the

courts. Both sides have filed motions addressing both procedural and substantive motions. In this order, the court grants those motions in part and denies them in part, as explained below.

PROCEDURAL HISTORY

The history of this litigation has been complicated. The case was filed in July 1998. Judge Coar, to whom this case was originally assigned, appointed an attorney to represent Plaintiff (Doc. No. 9), denied Defendants' motion to dismiss the case for failure to exhaust administrative remedies (Doc. No. 35), and entered a preliminary injunction directing Defendants to return Plaintiff's legal materials to him. (Doc. No. 31.) After the case was transferred to this court, Defendants moved for summary judgment, again arguing that the case was barred due to Plaintiff's failure to exhaust administrative remedies. Defendants acknowledged that Musgrove had filed a grievance concerning the confiscation of his materials, but argued that his failure to do so in a timely fashion was fatal to his grievance and to this lawsuit. On May 26, 2000, this court denied that motion, finding a dispute of material fact concerning the date on which Musgrove had submitted his grievance to prison authorities. (Doc. No. 66.) On June 30, 2000, the court set an October 10, 2000 trial date. (Doc. No. 67.)

As that date neared, Plaintiff grew frustrated concerning his difficulties in communicating with appointed counsel. Twice he asked the court to discharge the

attorneys and permit him to proceed *pro se*. The court conducted two telephone conferences to address the issue, and on September 25, 2000, reluctantly granted Musgrove's request that his attorneys withdraw after submitting the joint final pretrial order. (Doc. No. 79.) Plaintiff now proceeds *pro se*, but the court has asked his appointed attorneys to remain involved as "stand by" counsel for purposes of trial. (Doc. No. 98.)

On October 3, 2000, the parties submitted their Final Pretrial Order. (Doc. No. 89.) On October 6, 2000, the court conducted a lengthy pretrial conference. Defendants' attorneys appeared in person for that conference, as did Plaintiff's "stand-by" attorneys. Plaintiff participated via video conference equipment from state prison. At that conference, the court reviewed motions in limine and entered a number of rulings, including, significantly, a ruling that Plaintiff's claim in this case "is limited to loss of documents from the writ van" due to failure to exhaust remedies concerning his claim that documents were taken from his cell. Also at that conference, the court learned that Plaintiff's conviction of escape from the writ van had been reversed and remanded for a new trial. *See People v. Musgrove*, 313 Ill. App. 3d 217, 729 N.E.2d 865 (3d Dist. 2000). Concerned that Plaintiff's testimony in this trial might compromise his Fifth Amendment privilege in the criminal matter, the court re-set the trial date to January 8, 2001. (Doc. No. 98.) Because the criminal retrial has not yet taken place, that date also has been stricken.

DISCUSSION

Since October, the parties have filed more than a dozen motions seeking various forms of relief. Plaintiff Musgrove has filed a motion to strike certain allegations from the first amended complaint and make supplementary allegations (Doc. No. 108, 138); a motion for reconsideration of various rulings (Doc. No. 109, 111, 112, 114, 115, and 140); a motion to exclude evidence of certain disciplinary infractions (Doc. 110); a motion for an order directing the Department of Corrections to allow Plaintiff to take necessary materials with him for trial (Doc. No. 113); a motion for an extension of time and for leave to file a memorandum of law concerning one of the reconsideration motions (Doc. No. 119, 120); a motion for voluntary dismissal of Defendant Clarence Wright (Doc. No. 130); and a motion for an order directing that Defendants cease interfering with his research and furnish a “functioning telephone conferencing system.” (Doc. No. 131, 132). Defendants have moved for directions concerning Plaintiff’s transportation (Doc. No. 101, 123) and have filed two motions for summary judgment. (Doc. No. 106, 122, 133.) The court addresses these motions below.

A. Motions to Strike and Supplement

On November 8, 2000, Plaintiff Musgrove moved to strike certain allegations from the first amended complaint in this case and to supplement the complaint with additional allegations. Musgrove asserts that the amended complaint was filed by appointed counsel without his approval, but he does not identify the allegations he seeks

to withdraw or explain the reasons for this request. The motion to strike (Doc. 108-1) is denied. Nor has Plaintiff identified the supplemental allegations he now seeks to make. He suggests that Department of Corrections documents for which this court has ordered an *in camera* review “will likely bring new revelations as to pending claims.” (Request for Leave to Strike, Doc. No. 108, at 3.) The court has now reviewed those materials, which consist of Department of Corrections regulations and the records of an internal investigation of Musgrove’s attempted escape from DOC custody. The investigative records contain no reference to the legal files at issue in this case. Nor can the IDOC regulations support any additional claims; any violations of those regulations will not give rise to an independent constitutional claim. The court concludes that these additional documents provide no basis for supplemental claims. Plaintiff’s motion for leave to make supplements/amendments (Doc. No. 108-2) is denied. His motion for a ruling on this matter (Doc. No. 138-1, 138-2) is stricken as moot.

B. Motions for Reconsideration

In several motions, Plaintiff seeks reconsideration of previous rulings. First, he asks the court to reconsider its order granting Defendants’ request that the court take judicial notice of other lawsuits filed by Musgrove. The court stands by its ruling. Defendants should not be required to offer a witness or official court records in evidence in order to demonstrate that Plaintiff has filed other lawsuits. The court may direct the jury to take judicial notice of such lawsuits; certainly the jury will need to know about

other litigation Plaintiff has filed in order to understand his claim that he was harmed by Defendants' conduct in allegedly depriving him of legal materials. As observed in the court's October 6, 2000 order, however, the facts that Plaintiff pursued other lawsuits or had counsel appointed for him do not by themselves defeat his claim that Defendants violated his right of access to the courts by their conduct in this case. The motion for reconsideration of ruling on judicial notice (Doc. No. 109) is denied.

Plaintiff also seeks reconsideration of this court's ruling barring expert witnesses. (Doc. No. 111.) Because no experts were disclosed prior to the trial date, the court stands by this ruling as well. In any event, Plaintiff has not identified any expert witness he intends to call, nor identified the subject matter of such expert's testimony, nor explained why the jury will require the assistance of an expert in understanding the claims involved here. The motion for reconsideration of ruling prohibiting expert witness (Doc. No. 111) is denied.

Plaintiff's third request for reconsideration is aimed at the court's ruling concerning his First Amendment claims. (Doc. No. 112.) Plaintiff notes that he does not seek to amend his complaint to add a new retaliation claim (Request for Reconsideration and/or Clarification, at 2-3), but that his claim of denial of access to the courts itself invokes the First Amendment. The court agrees. Plaintiff will not be permitted to amend his complaint to add retaliation allegations, but will proceed here on the theory that Defendants violated his right of access to the courts, a First Amendment right

guaranteed under the Fourteenth Amendment. The motion for reconsideration and/or clarification of the First Amendment ruling (Doc. No.112-1, 112-2) is granted in part and denied in part.

Plaintiff asks the court to reconsider its ruling allowing evidence of his prior conviction. (Doc. No. 115.) The Federal Rules of Evidence govern this matter, and the court adheres to its earlier interpretation of those rules. Under Rule 608, a witness may be impeached by evidence that he has been convicted of a felony, if the conviction is not more than ten years old or the witness has been in custody on that conviction within the previous ten years. Plaintiff Musgrove is currently incarcerated, and the jurors will undoubtedly be aware of that fact because of the nature of his claims here. Defendants are entitled to offer evidence concerning the conviction. The motion to reconsider this ruling (Doc. No. 115) is therefore denied.

Plaintiff also urges the court to reconsider its order dismissing Odie Washington as a Defendant. According to Plaintiff, Mr. Washington knew about the alleged confiscation of his property by other officers but “turned a blind eye” to the matter. (Request for Reconsideration of Order Dismissing Defendant Odie Washington, at 4-5.) He notes in particular that Washington took no action following Judge Coar’s September 1998 injunctive order. The court is unpersuaded. Washington’s failure to investigate or to impose discipline on the wrongdoers after the fact does not amount to a constitutional violation since the omission was not the cause of Plaintiff’s injuries. *See*

Vukadinovich v. McCarthy, 901 F.2d 1439, 1444 (7th Cir. 1990). Plaintiff's request for reconsideration of the dismissal of Defendant Washington (Doc. No. 140)) is denied.

Finally, Plaintiff asks the court to reconsider its ruling dismissing his claim that Defendants confiscated documents from his cell. Defendants, for their part, again seek summary judgment in their favor on this issue. In ruling that Plaintiff had not exhausted his administrative remedies with respect to removal of materials from his cell, the court accepted Defendants' contention that Plaintiff's grievance was limited to a claim that Defendants improperly confiscated legal materials from the writ van, in which Plaintiff was transported and from which he attempted to escape. Having again reviewed the file materials carefully, the court now concludes that Plaintiff in fact did adequately comply with the grievance procedures and that his claim concerning documents taken from his cell must be reinstated. In reaching that conclusion, the court considers the plain language of Plaintiff's grievance. In that document, Plaintiff seeks return of documents that did not follow him in a move from one institution to another:

On 4-23-97, I was transferred from Stateville to Dixon Corr. Ctr. The following personal property was not sent to me:

. . . .

Legal folder with Affidavits
Legal file - Musgrove v. Johnson, 93 C 3547
Legal file - People v. Musgrove
Legal Affidavits Legal Exhibits for Contemplated litigation

Musgrove May 8, 1997 Grievance, Ex. A to Plaintiff's Motion for Leave to File Instant, Doc. No. 120. Plaintiff's grievance does state, "The legal papers were still left in the writ

van that I was taken to Will County Court House in by Lt. W. Kerfin and c/o B. Timms on 4-22-97.” This court concludes, however, that the grievance adequately put the Department of Corrections on notice that Plaintiff wanted the Department to return his documents. The fact that he was mistaken about the precise location from which they were taken ought not require a determination that he failed to meet the exhaustion requirement.¹

In fact, it appears that the staff members who reviewed Plaintiff’s grievance themselves understood his claims more broadly than Defendants do now. The grievance officer who investigated the matter simply contacted “Stateville Corr. Center who stated they are holding no property for him.” (Grievance Officer’s Report, Ex. B to Plaintiff’s Response to Defendant’s First Motion for Summary Judgment (Doc. No. 63)). Defendants now suggest that had Plaintiff filed a grievance “regarding files allegedly taken from his cell, he may have gotten the relief he allegedly needed, namely the return of the allegedly removed documents.” (Defendants’ Memorandum in Support of Motion for Summary Judgment, at 16.) Defendants have not, however, explained why or how a differently-worded grievance might have resulted in a different, more fruitful investigation.

¹ The court notes, further, that although Defendants have taken the position that Plaintiff failed to exhaust because this grievance was not timely filed, the copy that appears as an exhibit to Plaintiff’s original complaint bears a date stamp from the “Office of Inmate Issues” reflecting receipt by that office in May 1997.

The court concludes that Plaintiff has, in fact, properly exhausted all available administrative remedies concerning the loss of his documents. The motion for reconsideration of the ruling on grievance exhaustion (Doc. No. 114-1) is therefore granted. Plaintiff's motion for an extension of time (Doc. No. 119) and for leave to file instant his memorandum of law (Doc. No. 120) are also granted. Defendants' supplemental motion for summary judgment, in which Defendants argue that the court should adhere to its October 6, 2000 ruling on this issue (Doc. No. 133), is denied.

C. Motion to Exclude Evidence of Alleged Disciplinary Infractions

Concerned that Defendants will attempt to prejudice the jury, Plaintiff has moved to exclude evidence of any disciplinary infractions that are not relevant to this case. (Doc. No. 110.) The court agrees that evidence concerning other disciplinary infractions may have no bearing on the issues presented in this case and may be prejudicial. Without specific identification of the alleged infractions and the circumstances, however, the court is unable to determine categorically that none are more probative than prejudicial. The court therefore denies this motion (Doc. No. 110) without prejudice to consideration of specific disciplinary issues that Defendants may offer, and Plaintiff's objections to such matters.

D. Motions Concerning Trial Preparation

Plaintiff has moved the court for an order directing IDOC to permit him to take necessary property with him for this trial (Doc. 113-1), for an order directing that IDOC

cease “all activities that obstruct, infringe, or otherwise hamper” his ability to proceed (Doc. 131-1); and for an order directing that IDOC furnish him with a “sufficiently functioning telephone conferencing system.” (Doc. 132-1.)

The court agrees that Plaintiff should be permitted to bring relevant documents with him, but without specific information concerning the items Plaintiff wishes to bring and the security concerns, if any, that IDOC may face in allowing Plaintiff to bring his property, the court is not prepared to enter specific directions. The court does expect that Plaintiff will be permitted to bring documents and exhibits with him. This motion (Doc. No. 113-1) is therefore granted in part and denied in part without prejudice.

Similarly, the court agrees that Defendants ought not unduly obstruct or infringe upon Plaintiff’s preparation efforts. Because the court has no specific information about IDOC officials’ conduct and how it has impeded Plaintiff’s efforts to prepare, this motion (Doc. No. 131) is denied without prejudice. Finally, the court believes the telephone conferencing equipment and videoconferencing equipment, while sometimes cumbersome and slow, has nevertheless been adequate to permit communication among Plaintiff, Defendants, and the court. Plaintiff’s motion for an order requiring some further arrangements (Doc. No. 132) is therefore denied without prejudice.

Defendant DeTella has asked for a ruling concerning Plaintiff’s transportation to the court for trial. (Doc. No. 123.) This request was generated by Plaintiff’s refusal to travel in the security van recently acquired by the Department of Corrections. Plaintiff

claims that he suffers from an anxiety disorder that is exacerbated by travel in this van and has asked the court to order that IDOC transport him in a more comfortable and less confined vehicle for trial. The court is advised, however, that the new van was involved in a collision and is no longer available. The court therefore concludes that Defendants' motion regarding the transportation of Plaintiff to court (Doc. No. 101), as well as the motion for ruling on that motion (Doc. No. 123) must be denied as moot. Plaintiff's proposal concerning his transportation (Doc. No. 117) is also moot.

E. Motion to Dismiss Clarence Wright

Plaintiff's motion for voluntary dismissal of his claims against Defendant Clarence Wright (Doc. No. 130) is granted, and Defendant Wright is dismissed from this lawsuit with prejudice.

F. Defendants' Motion for Summary Judgment

On November 6, 2000, Defendants filed a motion for summary judgment in their favor on the merits of this case. (Doc. No. 106.) Because that motion was filed after the original trial date was set and only two months before the second trial setting, the court was initially reluctant to entertain it at all. After the January trial date was also stricken, Defendants again asked the court to consider the motion for summary judgment, and the court agreed. Defendants' motions for ruling on summary judgment (Doc. No. 122, 124) are granted.

Defendants have presented four arguments in their motion for summary

judgment. They argue: (1) that Plaintiff cannot demonstrate that he suffered actual injury to any non-frivolous legal position; (2) that the named Defendants all lack any personal involvement in the conduct at issue here; (3) that Plaintiff abandoned his claim to any personal property in the van when he escaped from the van on April 22, 1997; and (4) that Plaintiff failed to exhaust his administrative remedies.

The third and fourth arguments require little discussion. The court has already concluded that Plaintiff's May 1997 grievance form, interpreted liberally, presented concerns regarding deprivation of his personal property on April 22, 1997. The fact that he believed at the time of his grievance that the legal materials had been taken from the writ van on April 22, 1997 should not bar the court's consideration of a claim that they were in fact taken from his cell on that same day. Defendants' motion for summary judgment on the grounds of failure to exhaust administrative remedies is again denied.

Because Plaintiff's claim regarding removal of materials from his cell survives the exhaustion challenge, Defendants are not entitled to summary judgment on their "abandonment" theory. Defendants themselves acknowledge that a party seeking to show abandonment must offer evidence of intent to abandon. Defendants will be permitted to argue to the jury that Plaintiff intended to abandon his legal materials when he made his unsuccessful attempt to escape from the writ van. They have not argued that he intended to abandon materials in his cell.

Defendants' remaining arguments require more discussion. In support of their

argument that Defendants DeTella and Clark had no personal involvement in the conduct at issue here, Defendants have submitted several affidavits. George E. DeTella, Associate Director of the Department of Corrections, was the Warden of Stateville in April 1997. He asserts that he is familiar with Plaintiff Musgrove, but has “no personal knowledge of the incidents alleged in his complaint in [this case].” (DeTella Affidavit, Ex. 1 to Defendants’ Motion for Summary Judgment ¶ 5.) He asserts, further, that he “had no personal involvement in decisions regarding the seizure or disposition of inmate Musgrove’s personal property at Stateville Correctional Center in April 1997, or the alleged failure of any person to return the property at any subsequent date.” *Id.*

Defendant Dwayne Clark, who was the Assistant Warden of Operations at Stateville during the relevant time, has submitted an affidavit that includes identical language. (Clark Affidavit, Ex. 2 to Defs.’ Mot. ¶ 3.) Officers Bobby Timms and William Kurfin, who accompanied Musgrove in the writ van on April 22, 1997, have both attested that neither DeTella nor Clark gave them “any instructions regarding the searching of the van or the removal and/or storage of any documents or materials belonging to Musgrove.” (Timms Aff., Ex. 4 to Defs.’ Mot. ¶¶ 13, 14; Kurfin Aff., Ex. 5 to Defs.’ Mot. ¶¶ 13, 14).

Rod Stewart, Chief of Investigations at Stateville, and Thomas Schonauer, the Field Operations Supervisor, who were involved in the search of the van, made similar statements. (Stewart Aff., Ex. 7 to Defs.’ Mot. ¶ 10; Schonauer Aff., Ex. 8 to Defs.’ Mot. ¶ 9.)

On March 2, 2001, the court directed Plaintiff to respond to Defendants' arguments concerning the issue of Defendants DeTella's and Clark's involvement. (Doc. No. 135.) Plaintiff did file his *pro se* response on March 19, 2001, supported by a number of exhibits. He argues, first, that Defendants DeTella and Clark are liable because Plaintiff's grievance should have put them on notice of "the denial of access to court and looming detriment." (Plaintiff's Partial Response to Defendants' Third [sic] Motion for Summary Judgment (hereinafter, "Pltf.'s Resp.") ¶ 2.) As noted earlier, however, Defendants' failure to investigate or correct an alleged violation of Plaintiff's rights does not render them liable for that violation.

In an effort to show DeTella's and Clark's involvement, Plaintiff has also offered the testimony of Scott Lohiser, a correctional officer at Stateville, concerning his search of Plaintiff's cell on April 22, 1997. Lohiser testified as follows:

- Q. Do you recall in any of the shakedowns of Jeff Musgrove ever removing folders of shakedown material from his cell?
- A. On the day that he escaped, well, his attempted escape . . . I took out two packs of legal material, gave them to Lieutenant Hayes and that was it. That's all I recall from that. Why I took them, I believe I was told to take all paperwork out of the cell.
- Q. And who would have told you that?
- A. I want to say that came from the warden. . . Because it was the same day of his attempted escape, and they called me from movement and told me to get right over there and shake it down.
- Q. . . . Was that somewhat atypical, given your assignment in movement to be called over to shakedown a cell?
- A. How should I say?
I'm the shakedown artist. If there's something in a cell, I will find it. So that's why they always sent me on their special shakedowns.

- Q. I see. So, if there was a particular reason for the shakedown as opposed to being routine, you would more than likely be the person they would call?
- A. Yes, sir.

(Lohiser Dep, Ex. I to Pltf.'s Resp., at 21-23.) Later in his deposition, Lohiser again recalled that his "instructions to search came from the warden [DeTella]." *Id.* at 40.

Officer Roger Hayes testified that when a prisoner has attempted escape, the warden or assistant warden (not Hayes' direct supervisor) would order a shakedown of the prisoner's cell. (Hayes Dep, Ex. J to Pltf.'s Resp., at 21.)

In addition to the testimony of these correctional officers, Plaintiff has offered his own affidavit describing encounters with Warden DeTella and Assistant Warden Clark on the day of the escape. Plaintiff asserts that on his return to Stateville on April 22, 1997, he was met by Assistant Warden Clark, who "dragged me up the staircase, through the guard-hall and into an interrogation room." (Musgrove Aff., Ex. B to Pltf.'s Resp. ¶¶ 5, 6.) During this interrogation, Plaintiff claims, Clark asked him questions and referred to facts "he could have only learned by sifting my property." (*Id.* ¶ 9.) Plaintiff states that he was next taken to a small room where he was questioned by Defendant DeTella. (*Id.* ¶¶ 11, 12.) At the end of this interview, Plaintiff asked DeTella for permission to change clothes, to which DeTella replied, " 'No, you can't have any of your property.' " (*Id.* ¶ 13.)

It seems likely to this court that what happened to Plaintiff's legal documents was more likely a product of mistake or inadvertence on the part of subordinate officers than

deliberate confiscation on the part of Warden DeTella or Assistant Warden Clark. But the court is not prepared to say that there are no disputes of material fact on this issue. The court will therefore deny summary judgment on this basis but will be prepared to entertain an appropriate motion to dismiss these Defendants at the conclusion of Plaintiff's case in chief, pursuant to FED. R. CIV. P. 50.

The final issue relates to the harm suffered by Plaintiff as a result of the alleged misconduct. Defendants argue that Plaintiff cannot prove that he was prejudiced in any of his pending (or contemplated) litigation as a result of the alleged confiscation of his materials. To prevail in this case, Plaintiff must show that Defendants' actions kept him from pursuing a serious (nonfrivolous) action. *See Walters v. Edgar*, 163 F.3d 430, 434 (7th Cir. 1988), *citing Lewis v. Casey*, 518 U.S. 343 (1996). According to Defendants, Plaintiff cannot make such a showing here because (a) with respect to the three cases he identified in his complaint, Plaintiff could have obtained copies of any missing documents from the court files; (b) with respect to *Muhammad v. Burns*, a case now pending before another federal judge, Plaintiff was not harmed because the individual on whose behalf Plaintiff prepared the complaint in that case was represented by appointed counsel; and (c) with respect to Plaintiff's contemplated lawsuit against a newspaper, he cannot establish that the newspaper defamed him. Defendants point out, as well, that at least one of the cases that Plaintiff referred to in his complaint was a criminal matter in which the charges were ultimately withdrawn. Finally, Defendants refer to a case

Plaintiff intended to file against a prison security officer; they do not explain how or why the alleged confiscation of Plaintiff's files interfered with that litigation. Nor has Plaintiff himself ever identified how the loss of documents prevented him from pursuing his lawsuits.

The court concludes this is an important issue on which more briefing will be necessary. Plaintiff bears the burden of demonstrating that the loss of his documents resulted in his losing a claim or being prevented from presenting a claim in court. The mere fact that Defendants' conduct resulted in delay or inconvenience is not sufficient to meet this burden; there must be actual prejudice to Plaintiff's litigation position. See *Gentry v. Duckworth*, 65 F.3d 555, 559 (7th Cir. 1995).

This case is set for a telephone conference on Tuesday, April 17, 2001. At that conference, the court will direct Plaintiff to respond with specificity to this aspect of Defendants' motion for summary judgment.

CONCLUSION

For the foregoing reasons, Plaintiff's motion to strike and supplement (Doc. No. 108), and his motion for a ruling on this matter (Doc. No. 138-1, 138-2) is stricken as moot. Plaintiff's motions for reconsideration concerning judicial notice (Doc. No. 109) and expert witnesses (Doc. No. 111) are denied. His motion for reconsideration and/or clarification of the First Amendment Ruling (Doc. No. 112-1, 112-2) is granted in part and denied in part. The motion to reconsider the admissibility of Plaintiff's convictions

(Doc. No. 115) is denied, as is the motion to reconsider dismissal of Odie Washington (Doc. No. 140).

The court earlier dismissed Plaintiff's claims relating to confiscation of documents from his cell. The court now grants Plaintiff's motion (Doc. No. 114-1) for reconsideration of that ruling and denies Defendants' supplemental motion for summary judgment (Doc. No. 133). Plaintiff's motion for an extension of time (Doc. No. 119) and for leave to file instant his memorandum of law (Doc. No. 120) are also granted.

Plaintiff's motion to bar evidence of any disciplinary infractions (Doc. No. 110) is denied without prejudice. His motion for an order directing IDOC to permit him to take necessary property with him for this trial (Doc. 113-1) is granted in part and denied in part without prejudice to appropriate security-related objections. Plaintiff's motions for direction that IDOC cease "all activities that obstruct, infringe, or otherwise hamper" his ability to proceed (Doc. 131-1); and furnish him with a "sufficiently functioning telephone conferencing system" (Doc. 132-1) are denied without prejudice. Because the transportation van challenged by Plaintiff is no longer available, Defendants' motion regarding the transportation of Plaintiff to court (Doc. No. 101), as well as the motion for ruling on that motion (Doc. No. 123) and Plaintiff's proposal concerning his transportation (Doc. No. 117) are all denied as moot.

Plaintiff's motion for voluntary dismissal of his claims against Defendant Clarence Wright (Doc. No. 130) is granted, and Defendant Wright is dismissed from this lawsuit.

Finally, Defendants' motions for a ruling on their summary judgment motion (Doc. No. 122, 124) are granted. The motion for summary judgment (Doc. No. 106) is denied in part and entered and continued in part, as described above.

ENTER:

Dated: April 17, 2001

REBECCA R. PALLMEYER
United States District Judge